



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 09.07.1999
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Proposal for a

**DECISION OF THE COUNCIL AND THE REPRESENTATIVES OF THE
MEMBER STATES, MEETING WITHIN THE COUNCIL**

**authorising the Commission to open negotiations with the ACP States with
a view to amending the third ACP-EEC Convention, signed at Lomé on
December 1984, the fourth ACP-EEC Convention, signed at Lomé on 1
December 1989, and the fourth ACP-EC Convention as revised by the Mauritius
Agreement of 4 November 1995**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The Commission has always had to administer more than one European Development Fund (EDF) at once. In 1998, for example, it was managing the sixth, seventh and eighth EDFs. It also administers, separately, the balances from previous closed EDFs which have been carried over to EDFs in force.

Although the financial provisions of each Convention have a duration of five years in principle, there is no time limit on the use of funds.

This situation has been repeatedly highlighted by the Court of Auditors, which had indicated to the Commission that it should propose to the Council and the ACP States mechanisms for dealing with this situation, which complicates matters and hinders the productive use of funds.

2. The Commission considers that consolidated administration of all the resources still to be committed and paid out under the various EDFs should allow both it and the ACP States to use those resources
 - more simply, transparently and effectively;
 - according to a single strategy;
 - in a way consistent with the most recent programming guidelines;
 - following the same implementation procedures applicable to the most recent (eighth) EDF, with once exception regarding the participation of Member State enterprises in calls for tender.
3. The Member States have already been informed about the broad outlines of this approach, which was debated at ACP-FIN group meetings on 18 and 31 March 1998. The Commission also made a statement on the subject at the ministerial level meeting of the Development Finance Committee on 8 May 1998 in Barbados. On all these occasions the Commission's proposals were given a favourable reception.
4. Specifically, the Commission proposes transferring to the eighth EDF all the appropriations available under the sixth and seventh EDFs and the balances of previous EDFs as set out in a list to be drawn up by the Commission by 30 June 1999 in preparation for the discussions due to be held with the ACP representatives at the ACP-EC Council meeting concerning the negotiations mentioned below (see paragraph 9) in July 1999. Once this list has been drawn up, no new commitments will be made under the sixth or seventh EDFs. At regular intervals to be determined, funds decommitted from projects under the sixth and seventh EDFs which are closed at a later date will also be transferred.
5. The balances of previous EDFs will be merged with the corresponding eighth EDF allocations. In the case of programmable aid, the balances will continue to be allocated to the national and regional indicative programmes in order to

preserve the individual interests of the ACP States. In the case of non-programmable aid, the funds will continue to be allocated to each instrument.

6. The Commission confirms that these changes will entail no additional financial commitment from the Member States, nor will they alter the distribution scale for calls for contributions.
7. The Commission will also take care to ensure that this merging of resources and integration of administrative methods is carried out with due respect for the interests of each Member State with regard to the rules for invitations to tender and award of contracts under the sixth and seventh EDFs.
8. For balances that have not been committed (see paragraph 4) to be transferred to the eighth EDF, various existing texts need to be amended:
 - Article 216(3) of the third ACP-EEC Convention, signed at Lomé on 8 December 1984 ;
 - the Financial Protocol to the fourth ACP-EEC Convention, signed at Lomé on 15 December 1989;
 - the Financial Protocol to the fourth ACP-EC Convention as revised by the Mauritius Agreement on 4 November 1995;
 - the Internal Agreement on the financing and administration of Community aid under the Second Financial Protocol to the fourth ACP-EC Convention at Lomé;
9. To do this the following steps must be taken:
 - the ACP States must be asked to open negotiations to revise the first three texts listed in paragraph 8 above;
 - once the agreements on the amendment of these three texts have been signed, a decision must be proposed to the ACP-EC Council authorising the Commission to take the steps described above on a transitional basis in advance of the amendments, since they do not, as already emphasised, entail additional financial commitments;
 - at the same time and in the same way, the Council and the representatives of the Governments of the Member States meeting within the Council must be asked to apply in advance the planned amendments to the Internal Agreement, as featured in draft in the annexes attached to the proposed Decision.

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**authorising the Commission to open negotiations with the ACP States with a
view to amending the third ACP-EEC Convention, signed at Lomé on
8 December 1984, the fourth ACP-EEC Convention, signed at Lomé on
15 December 1989, and the fourth ACP-EC Convention as revised by the
Mauritius Agreement of 4 November 1995**

**THE COUNCIL OF THE EUROPEAN UNION AND THE REPRESENTATIVES
OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,**

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty establishing the European Coal and Steel Community,

Having regard to the third ACP-EEC Convention, signed at Lomé on
8 December 1984, hereinafter referred to as "the Lomé III Convention",

Having regard to the fourth ACP-EEC Convention, signed at Lomé on
15 December 1989, hereinafter referred to as "the Lomé IV Convention",

Having regard to the fourth ACP-EC Convention as revised by the Mauritius
Agreement signed on 4 November 1995, hereinafter referred to as "the revised Lomé
IV Convention",

- (1) Whereas at the ACP-EC Council meeting in Barbados on 7 and 8 May 1998
the Commission informed the ACP States of its intention of proposing a
revision of the above Conventions to simplify the administration of the
European Development Funds;
- (2) Whereas negotiations should be opened with the ACP States to examine the
amendments to be made to those Conventions;

HAVE DECIDED AS FOLLOWS:

Article 1

The Commission is hereby authorised to open negotiations with the ACP States party
to the Lomé III, Lomé IV and revised Lomé IV Conventions.

Article 2

The purpose of the negotiations shall be to examine the amendments to be made to the above Conventions to simplify the administration of the corresponding European Development Funds.

Article 3

The Commission shall conduct the negotiations in consultation with the Member States, in accordance with the above provisions, the negotiating directives set out in the Annex and any additional directives.

Done at Brussels,

*For the Council
The President*

ANNEX

NEGOTIATING DIRECTIVES

The purpose of the negotiations to be conducted by the Commission with the ACP States is to arrive at a decision by the Member States of the European Union and the ACP States party to the Lomé III, Lomé IV and revised Lomé IV Conventions, meeting in the July 1999 ACP-EC Council of Ministers, on the conclusion of an agreement, a draft of which is annexed, amending those three Conventions.

Draft

ACP-EC AGREEMENT

amending the third ACP-EEC Convention signed at Lomé on 8 December 1984, the fourth ACP-EEC Convention signed at Lomé on 15 December 1989, and the Second Financial Protocol to the revised fourth ACP-EC Convention

THE PARTIES (LIST OF INSTITUTIONS AND STATES),

Having regard to the third ACP-EEC Convention signed at Lomé on 8 December 1984,¹

Having regard to the fourth ACP-EEC Convention signed at Lomé on 15 December 1989,²

Having regard to the First Financial Protocol annexed to the fourth ACP-EEC Convention, the provisions of which refer where appropriate to the seventh EDF;³

Having regard to the Second Financial Protocol annexed to the revised fourth ACP-EC Convention, the provisions of which refer where appropriate to the eighth EDF;⁴

- (1) Whereas the European Development Funds, hereinafter referred to as "the EDFs", have until now had a lifetime exceeding that of the corresponding Conventions, as a result of which the Commission administers different EDFs simultaneously;
- (2) Whereas steps should be taken to avoid a similar problem arising upon the expiry of the revised fourth ACP-EC Convention;
- (3) Whereas the administration of the EDFs should be simplified so that all the available resources can be managed more simply, transparently and effectively, in accordance with a single strategy that takes account of the most recent guidelines, in particular in terms of programming;

HAVE AGREED AS FOLLOWS:

Article 1

Article 216(3) of the third ACP-EEC Convention is replaced by the following:

¹ OJ L 86, 31.3.86, p. 3
² OJ L 229, 17.8.91, p. 3
³ OJ L 229, 17.8.91, p. 133
⁴ OJ L 156, 29.5.98, p. 29

« The available balance of EUR million and amounts which may be decommitted later from projects currently being implemented under the sixth EDF shall be merged with the funds available under the eighth EDF. »

Article 2

The following is added to Article 4 of the First Financial Protocol to the fourth ACP-EEC Convention:

« The available balance of EUR million and amounts which may be decommitted later from projects currently being implemented under the seventh EDF shall be merged with the funds available under the eighth EDF. »

Article 3

In the Second Financial Protocol to the revised fourth ACP-EC Convention, the amounts listed below are amended as follows:

Article 1:

1. ECU 14 625 million is replaced by EUR

a) ECU 12 967 million and ECU 292 million are replaced by the following:
EUR

i) ECU 1 400 million is replaced by EUR

ii) ECU 1 000 million is replaced by EUR

iii) ECU 1 800 million is replaced by EUR

iv) ECU 575 million is replaced by EUR

Article 3:

1. ECU 1 300 million is replaced by EUR

2. iii) ECU 85 million is replaced by EUR

iv) ECU 85 million is replaced by EUR

Article 4

The part of the balances transferred under Articles 1 and 2 above which was allocated to national or regional indicative programmes shall be allocated to national or regional programmes under the eighth EDF for the countries and regions concerned.

Article 5

Article 4 of the Second Financial Protocol to the fourth ACP-EC Convention is replaced by:

« Any balance from the Fund which is not committed or disbursed at the moment of entry into force of the new Fund shall automatically be merged with the sums available under the new Fund. »

This Agreement shall enter into force in accordance with the procedures set out in Article 360 of the fourth ACP-EC Convention.

Draft

**AGREEMENT BETWEEN THE REPRESENTATIVES OF THE
GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN
COMMUNITY, MEETING WITHIN THE COUNCIL**

**amending the Internal Agreement on the financing and administration of
Community aid under the Second Financial Protocol to the fourth ACP-EC
Lomé Convention**

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER
STATES OF THE EUROPEAN COMMUNITY, MEETING WITHIN THE
COUNCIL,

Having regard to the Internal Agreement on the financing and administration of
Community aid under the Second Financial Protocol to the fourth ACP-EC
Convention, hereinafter referred to as "the Internal Agreement",¹

- (1) Whereas the overall amount of Community aid to the ACP States as fixed by
the Second Financial Protocol annexed to the revised fourth ACP-EC
Convention was amended by the Agreement of July 1999 amending the
third ACP-EEC Convention signed at Lomé on 8 December 1984, the fourth
ACP-EEC Convention signed at Lomé on 15 December 1989 and the Second
Financial Protocol to the revised fourth ACP-EC Convention,²

After consulting the Commission,

HAVE AGREED AS FOLLOWS:

Article 1

The amounts listed below are amended to take account of the amendments made by
the Agreement amending the third ACP-EEC Convention signed at Lomé on 8
December 1984, the fourth ACP-EEC Convention signed at Lomé on 15 December
1989 and the Second Financial Protocol to the revised fourth ACP-EC Convention:

- 1) In the first recital:

ECU 14 625 million is replaced by EUR, ECU 12 967 million is
replaced by EUR and ECU 1 658 million is replaced by EUR

¹ OJ L 156, 29.5.98, p. 108

² (OJ ref)

2) In Article 1:

2. a) ECU 13 132 million is replaced by EUR

2. a) add 2)a)i)a) EUR ... (amount transferred) contributed by the Member States as follows: *list of the 12 countries with the distribution scale of the seventh EDF*

3) In Article 2:

1. a) ECU 12 967 million is replaced by EUR

i) ECU 11 967 million and ECU 1 300 million are replaced by EUR
and ECU 6 292 million is replaced by EUR

ii) ECU 1 000 million is replaced by EUR

Article 2

Article 34 is amended as follows:

« The balances of the Funds set up under the Internal Agreements of 1975, 1979 and 1985 on the financing and administration of Community aid shall be administered in accordance with the rules of the Internal Agreement of 1998 as amended by this agreement. »

This agreement shall enter into force in accordance with the procedures set out in Articles 35 and 36 of the Internal Agreement.

Done at Brussels,

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DOCUMENTS

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